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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,069	10/06/2003	Tuoc Tan Nguyen	816020-100050-US	9948
34026	7590	05/03/2005	EXAMINER	
JONES DAY 555 WEST FIFTH STREET, SUITE 4600 LOS ANGELES, CA 90013-1025			MILLER, CHERYL L	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/680,069	Applicant(s) NGUYEN ET AL.	
	Examiner Cheryl Miller	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of species 15, drawn towards figures 30a-30b has been acknowledged.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Gabbay (US 2003/0040792 A1). Gabbay discloses a valve assembly (fig.2, 4, 14) comprising a replacement valve (12, 52, 472) having a scalloped inflow annulus (seen as slightly scalloped in fig.4, 15, 24, 25; and disclosed to scallop, [0042]), an outflow annulus, and a plurality of leaflets (22, 24, 26), and a spring aided anchoring structure (14, 54, 420) comprising a plurality of members (members may be considered a ring strut seen in fig.4, attachment 1, or linear members 406, 428, seen in attachment 2) and a plurality of springs therebetween (springs may be considered to be ring stents positioned between end stents, seen in attachment 1, the stents having spring properties 0048, 0049; or spring coils 408, 430 in attachment 2). Gabbay discloses the valve (12, 52, 472) positioned internal of the anchoring structure (14, 54, 420). Gabbay discloses the members (struts in attachment 1 or 2) to comprise peaks and valleys. Gabbay discloses the assembly to comprise anchoring sections (this could be any portion along stent, or could be barb 66, or flare sections on stent).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrison et al. (US 6,425,916 B1) in view of Myers et al. (US 2002/0052651). Garrison discloses a valve assembly (fig.9) comprising a replacement valve (38) having an inflow annulus, an outflow annulus, and a plurality of leaflets (fig.11), and a spring aided anchoring structure (frames 8+6) comprising a plurality of members (members may be considered to be individual struts on frame 8, or individual struts on frame 6) and a plurality of springs therebetween (springs may be considered to be ring stents 28 and 30 that extend along and in between members of 8; or springs may be considered to be coil spring sections 36 which extend between strut members on frame 8 and frame 6; see fig.10, 11). Garrison however discloses the inflow annulus to be straight rather than scalloped. Myers teaches in the same field of valve assemblies, the use of scalloped annuluses on replacement valves (see fig.8, 9, 17, 28, and 29) as an improvement to straight annuluses, in order to provide increased hemodynamic performance, minimized creasing, and an overall better fit within the native valve [0088-0090]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Garrison's valve prosthesis, with Myers teaching of scalloping annuluses of valve prostheses, in order to provide increased hemodynamic performance, minimized creasing, and an overall better fit within the native valve.

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Garrison discloses the valve (38) positioned internal of the anchoring structure (8+6). Garrison discloses the members to comprise peaks and valleys (both members on 8 and on 6 comprise peaks and valleys, see fig.8, 10). Garrison discloses the assembly to comprise anchoring sections (anchor sections may be considered any portion of the anchor structure, since the purpose of the anchor structure is to anchor, or the anchor section may be considered barbs 100, or flares seen in fig.8).

### ***Conclusion***

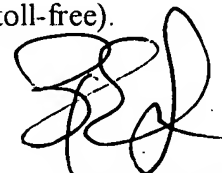
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cheryl Miller

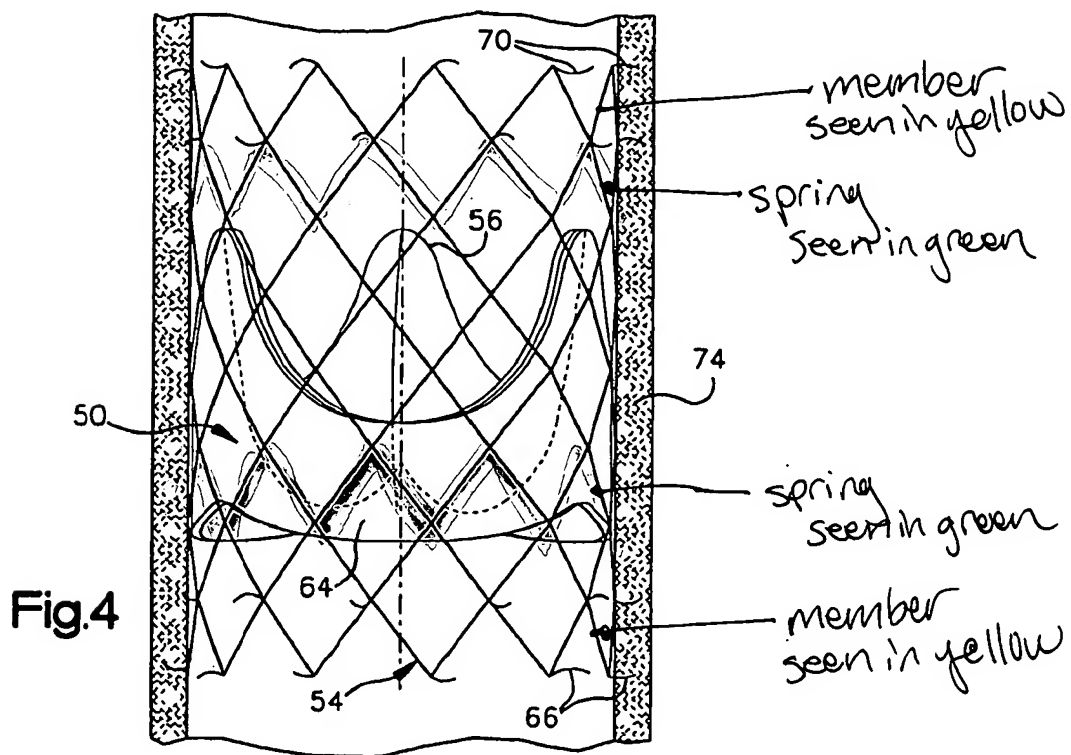
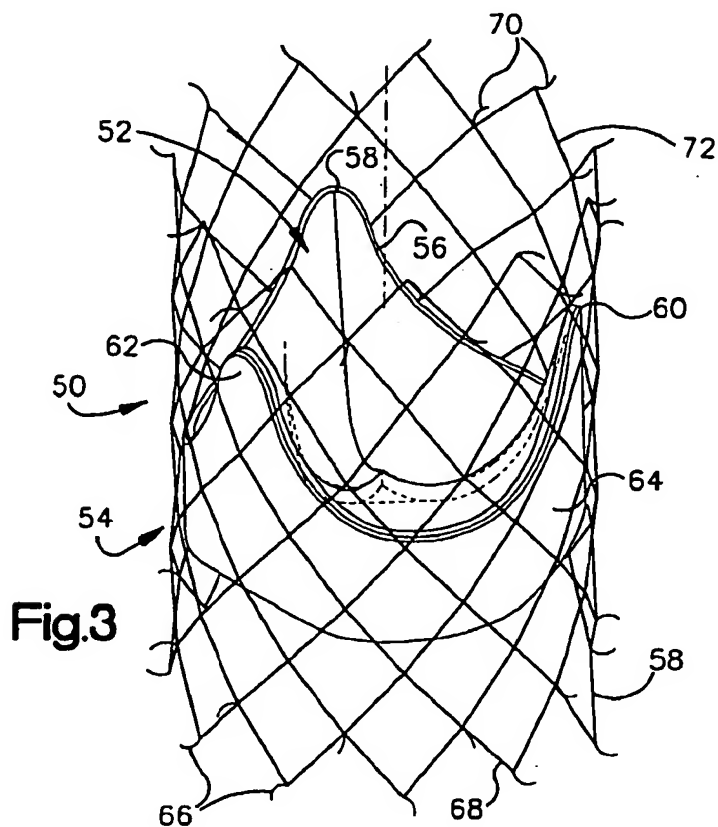


BRUCE SNOW  
PRIMARY EXAMINER

# Attachment #1 (marked up)

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# Attachment #2 (marked up)

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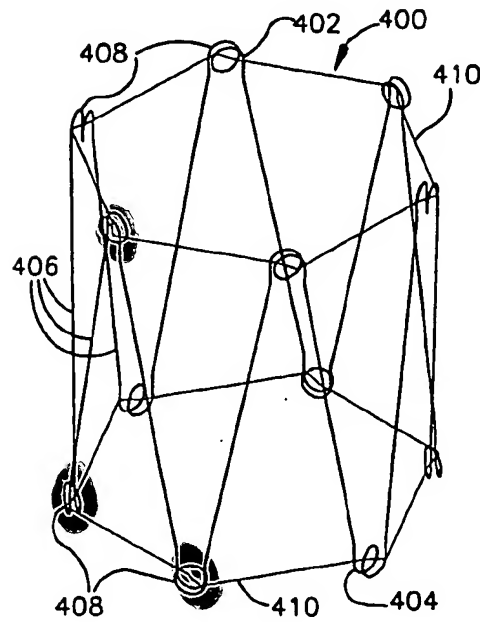


Fig. 12

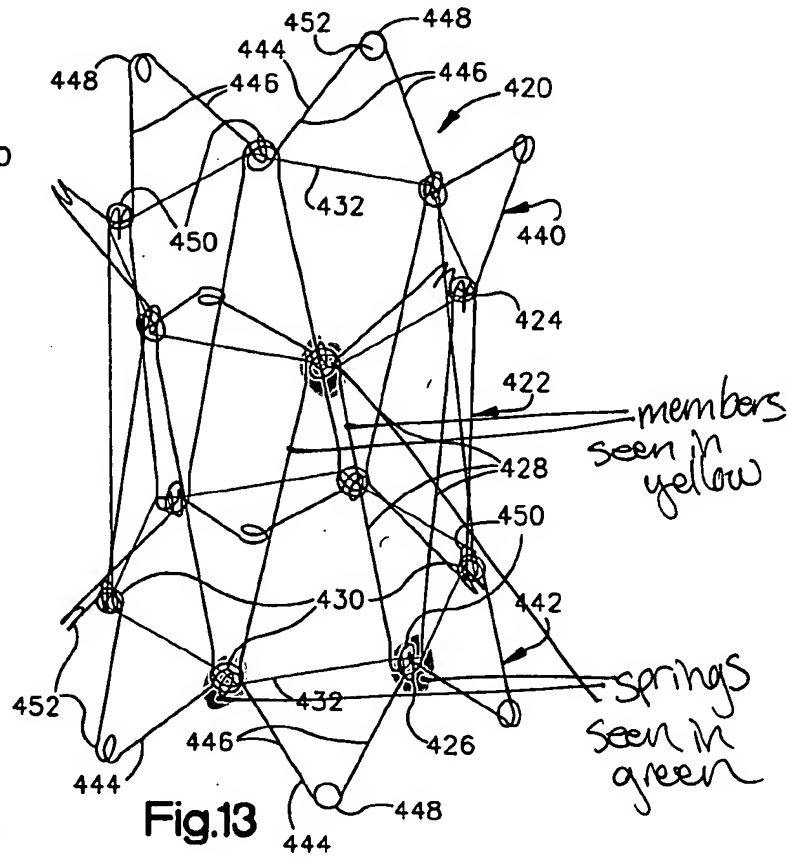


Fig. 13

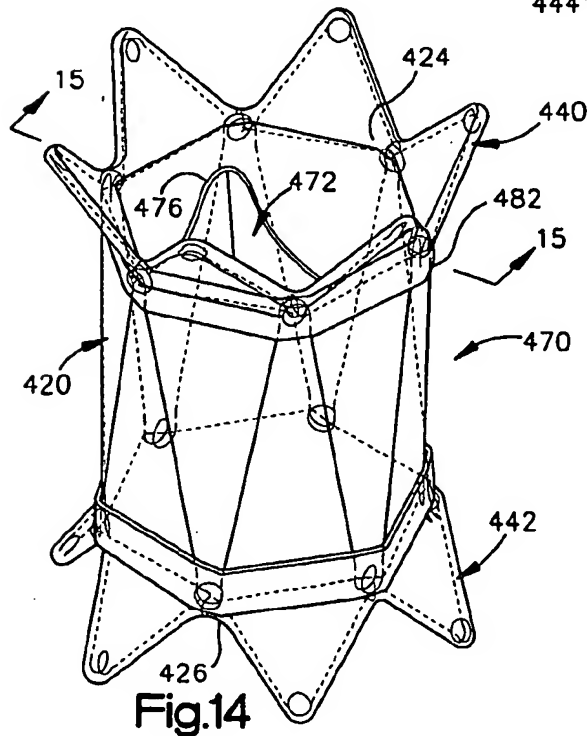


Fig. 14